

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

RICHMOND DIVISION

CASE NO. 3:15-cv-594

DAVID WILLIAM WOOD,

Plaintiff,

vs.

EQUIFAX INFORMATION SERVICES, LLC, et al.,

Defendants.

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VIDEOTAPED AND VIDEOCONFERENCED DEPOSITION OF  
ALLAN JOHN SHUTT

Wednesday, June 8th, 2016

433 Plaza Real

Suite 275

Boca Raton, Florida

10:01 a.m. - 1:14 p.m.

Reported by: MARCIA L. ALF, R.P.R.

Notary Public - State of Florida

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1       versus NBNA from the Fourth Circuit?

01:00:59

2           A.     Yes.

01:01:03

3           Q.     What is your understanding of Johnson versus  
4       NBNA?

01:01:03

01:01:06

5           A.     Could you be more specific on what you would  
6       like me to expound on?

01:01:07

01:01:09

7           Q.     How does the Fourth Circuit view the term  
8       reasonable investigation?

01:01:13

01:01:21

9           A.     They --

01:01:25

10           MR. SEARS:  Objection as to form.

01:01:25

11           THE WITNESS:  I can't tell you what -- what  
12       they view, I could tell you my understanding of  
13       what the case kind of holds and what its  
14       importance might be.

01:01:30

01:01:33

01:01:35

01:01:41

15           I believe that the case evaluated what a  
16       investigation would entail, and they coined a  
17       term that is not in the statute or regulation,  
18       may not even be in any of the regulatory  
19       materials.  But basically insinuated that an  
20       investigation had to be a reasonable one.

01:01:42

01:01:49

01:01:56

01:02:00

01:02:04

01:02:07

21           And then they used the definition from a  
22       dictionary about what reasonable meant, and it's  
23       not really different, I think, than what most  
24       people in the industry were already doing, and  
25       that was to look at again as our guidelines would

01:02:10

01:02:12

01:02:16

01:02:18

01:02:20

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1 dictate, the information provided by the bureau 01:02:24  
2 and the customer and any additional attachments 01:02:28  
3 that they provided to their dispute, to evaluate 01:02:32  
4 it and then determine if additional information 01:02:37  
5 needed to be reviewed or requested from the 01:02:39  
6 customer so that a disposition could be made on 01:02:41  
7 the dispute. And then report that back to the 01:02:47  
8 bureaus and to the customer if they directly 01:02:49  
9 disputed it with you. 01:02:52

10 So, I think that case while slightly 01:02:52  
11 different but using a new term reasonable was 01:02:59  
12 already in fact what I would argue most people in 01:03:01  
13 the industry were already doing. 01:03:05

14 Obviously NBNA was held to not per se having 01:03:06  
15 been done that, but in my experience people were 01:03:10  
16 already performing reasonable investigations 01:03:13  
17 under NBNA's decision. I don't think that came 01:03:15  
18 with any real revelation or life changing 01:03:18  
19 procedures to be implemented for most people who 01:03:23  
20 are, let's just say regulated by the Office of 01:03:26  
21 Comptroller of Currency. 01:03:29

22 I mean, you know, the expectation is there to 01:03:29  
23 make sure that we are -- that national banks were 01:03:32  
24 reporting accurate information to the bureaus, 01:03:34  
25 was well ingrained and I would argue certainly 01:03:37

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1 Credit One Bank was doing that. But I would 01:03:42  
2 suspect that most financial institutions were 01:03:44  
3 already performing under the NBNA institution, a 01:03:47  
4 reasonable investigation. 01:03:51

5 And hence our guidelines used the terms 01:03:52  
6 reasonable for that reason, that's how we 01:03:54  
7 performed training. But I personally believe 01:03:56  
8 that that was already something in effect prior 01:04:00  
9 to that decision. 01:04:03

10 BY MS. ROTKIS: 01:04:03

11 Q. Okay. Are you familiar with Saunders versus 01:04:03  
12 BB&T? 01:04:06

13 A. Yes. 01:04:07

14 Q. And, what do you understand the Fourth 01:04:08  
15 Circuit held in that case? 01:04:12

16 A. Again, I mean, I can't speak directly for 01:04:14  
17 them but both of those Fourth Circuit decisions 01:04:20  
18 interpreting investigations, you know, were 01:04:24  
19 considerations that people reviewed to make sure that 01:04:29  
20 they were following, at least in that jurisdiction, 01:04:33  
21 what the courts were dictating as investigations 01:04:36  
22 should be. 01:04:41

23 I personally didn't feel, again, that there 01:04:42  
24 was any real change as to in those two cases how 01:04:44  
25 investigations were being performed. And there wasn't 01:04:48

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1 anything specifically changed in the process. Some of  
2 those, obviously the NBNA case was 2004, that was well  
3 before I started with Credit One Bank.

4 But as I indicated, the reasonable  
5 investigation standard was already -- already being  
6 done by the time I was arriving at the bank. And  
7 certainly was trained on and continued to be  
8 emphasized to people performing investigations for  
9 credit disputes.

10 Q. What percentage of the compliance budget was  
11 dedicated to the development of the compliance manual?

12 A. Well, I can't answer that question because  
13 the compliance budget didn't function that way.  
14 Unless you are talking about the allocation of  
15 employee resources.

16 So, compliance budget, as we already went  
17 over and you delineated several areas, but not all of  
18 them. Included things like training, which we did  
19 discuss. It certainly included employee salaries. It  
20 would have included travel to and from conferences, it  
21 would have included conferences, it would have  
22 included publications such as memberships to American  
23 Bankers Association or American Bankers or  
24 subscriptions to Hudson Cook's library, things like  
25 that.

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